

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

NORMAN TODD,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:07-cv-149-MEF
)	
CITY OF CLANTON <i>et al.</i> ,)	
)	
Defendants.)	

—
ORDER

This cause is before the Court on Defendants' Motion to Dismiss (Doc. # 2). One of defenses asserted in this motion is for failure to state a claim upon which relief can be granted, which is the defense permitted by Rule 12(b)(6) of the Federal Rules of Civil Procedure. Rule 12(b) further states that, with respect to a Motion to Dismiss grounded in Rule 12(b)(6), if

matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

Fed. R. Civ. P. 12(b)(6). The Defendants submitted two exhibits in support of their Motion to Dismiss (Doc. # 7). This Court will not exclude these evidentiary submissions.

Accordingly, pursuant to Rule 12(b), it is hereby ORDERED as follows:

(1) The parties are advised that the Court will treat Defendants' Motion to Dismiss as a Motion for Summary Judgment.

(2) The parties may submit any additional evidentiary materials or legal argument pertinent to this motion on or before **September 24, 2007**. As part of these submissions, counsel for Defendants shall submit copies of any warrants related to the search of Plaintiff's residence and the arrest of Plaintiff.

Done on this 19th day of September, 2007.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE